

REMARKS

Favorable reconsideration of this application as presently amended and in light of the following discussion, is respectfully requested.

After entry of the foregoing amendment, Claims 1, 3, 4, 6 and 7 remain pending in the present application. No new matter has been added.

By way of summary, the Official Action presents the following issues: Claims 1, 3, 4 and 6 stand rejected under 35 U.S.C. §103 as being unpatentable over Okose (JP 2000-059731, hereinafter Okose) in view of Auwens et al. (U.S. Patent No. 6,377,518 hereinafter Auwens); and Claim 7 stands rejected under 35 U.S.C. §103 as being unpatentable over Okose and Auwens in further view of Yoshikawa (JP 2001-092575A, hereinafter Yoshikawa).

REJECTION UNDER 35 U.S.C. §103

The Official Action has rejected Claims 1, 3, 4 and 6 35 U.S.C. §103 as being unpatentable over Okose in view of Auwens. The Official Action contends that the combination of these references discloses or suggests all of the Applicant's claimed features. Applicant respectfully traverses the rejection.

Applicant's amended Claim 1 recites, *inter alia*, an information processing apparatus, including:

...conversion means for converting the first format of said content data acquired by said content data acquisition means to a second format, the second format being a predetermined optical disc standard;

information acquisition means for acquiring relative time information of said content data from said content data acquired by said content data acquisition means, said relative time information defining timing of portions of the content data;

generation means for generating a menu of said content data acquired by said content data acquisition means based on said relative time information and user specified time information;

recording control means for executing control such that said content data converted to said second format by said conversion means is recorded from said information processing apparatus to a predetermined removable recording medium in accordance with said menu generated by said generation means... (emphasis added)

Okose describes a DVD authoring system. Specifically, content of a DVD format is converted to a MPEG system. An edit control part (109) performs editing produced by an added information generating part (110). In this way, time code information embedded in the DVD format data is utilized in the MPEG stream.

As noted in the Official Action at page 7, Okose does not describe generating menu information based upon acquired time information. In this regard, the Official Action cites the Auwens reference.

Auwens describes a method by which real time information is stored to a recording medium such that one-pass recording is possible. As shown in Figure 20, a free area of the disc is identified as step (205) for recording video data therein. At step (207) control information is added to the free area. As outlined at column 2, lines 49-65, this simplified recording process allows real time video to be stored to a portion of a recording medium, such as a DVD, along with basic control information. To account for this hybrid recording process, DVD format options are disabled. For example, as outlined at column 12, lines 1-15, the disc does not make use of menus. Likewise, the disc does not make use of parental management, text data manager, and includes only a single video title set. These options are disabled in order to free up an increased amount of space for capturing the real time content.

Conversely, in an exemplary embodiment of the Applicant's claimed advancements, a menu of content data acquired by content data acquisition is generated based on relative time information and user specified time information. For example, as shown in Figure 20, a chapter menu may be generated based upon the relative time information retrieved from content data in the first format. Likewise, as explained in Figure 19 (S111-S116) as user may

alter the timing of the menu items. Auwens clearly describes disabling menu features when creating content of a DVD format.

"A reference may be said to teach away when a person of ordinary skill in the art, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant." *In re Gurley*, 31 U.S.P.Q.2d 1130, 1131 (Fed. Cir. 1994). To this end, "disclosures in the references that diverge from and teach away from the invention cannot be disregarded", Phillips Petroleum Company v. U.S. Steel Corp., 9 U.S.P.Q.2d 1461 (Fed. Cir. 1989).

Furthermore, Auwens is completely silent with regard to any functionality for providing user specified timing relative to a generated menu as recited in the Applicant's claims.

With respect to Claim 7, Applicant respectfully points out that the rejection of Claim 7 is likewise based upon the combination of Okose and Auwens as discussed above. While the Yoshikawa reference is also utilized in the rejection of Claim 7, as this reference does not remedy any of the deficiencies discussed above, Applicant respectfully submits that a *prima facie* case of obviousness has not been presented.

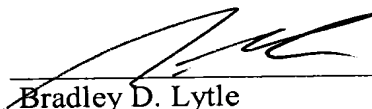
Accordingly, Applicant respectfully requests that the rejection of Claims 1, 3, 4 and 6 under 35 U.S.C. §103 be withdrawn.

CONCLUSION

Consequently, in view of the foregoing amendment and remarks, Applicant respectfully submits that the present application is in condition for allowance, and such action is respectfully requested at an early date.

Respectfully submitted,

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